IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.41703 of 2007
DEEPAK KUMAR PATHAK
Versus
STATE OF BIHAR THRU.C.B.I.
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13. 2.7.2008 Heard learned counsel for the petitioner and learned counsel for the C.B.I.

The petitioner prays for anticipatory bail in a case under Sections 120 B, 420, 467 and 468 of the Indian Penal Code and Section 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act.

The allegation in the present matter is that in the year 1991 the various officials and employees of the All India Radio, Darbhanga, entered into a conspiracy, in furtherance of which the fake medical reimbursement bills were drawn and disbursed to several employees including this petitioner. On enquiry it was found that the said reimbursements have been claimed by the employees, who actually never fell ill nor underwent any medical trteatment and never purchased any medicines. Several cash memos and Medical Certificates were also found to be false and bogus and several shops from which the purchases were allegedly made were also not found to be in existence. The name of the petitioner cropped up as one of such employees, who had claimed and received a sum of Rs. 5605/- through the said fake bills.

Learned counsel for the petitioner submits that in the case of the petitioner, an order was passed by the Director- General of All India Radio, holding that the order for deduction of Rs.5605/-

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from the salary bill of the petitioner is improper and not in order and for the said reason, it is stated that the case of the petitioner stands on better footing and he ought to be released on anticipatory bail. It is further submitted that the main accused of this case, namely, M.N. Viswas has already been granted anticipatory bail by this court and, thus, the case of the petitioner stands on much better footing and he is also entitled to the same privilege.

Learned counsel for the C.B.I., on the other hand, opposing the prayer for anticipatory bail states that the involvement of this petitioner along with others has clearly been found in the present matter in course of investigation and the sanction for prosecution has also been given by the same officer, who had directed to refund the amount. It is submitted that the refund of amount does not absolve the petitioner from his criminal liability as has been found in course of the investigation. It is further submitted that except M.N. Viswas, no other person has been granted anticipatory bail and another accused person, who had also relied upon the said order, namely, Vijay Shankar Shrivastava, has been refused anticipatory bail by this Court and his prayer for anticipatory bail was also rejected by the Supreme Court by order dated 8.12.2006 passed in Special Leave to Appeal (Crl.) No. 6078/2006.

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On a consideration of the facts and circumstances of the case, this Court does not consider it a fit case for grant of anticipatory bail to the petitioner and the same is, accordingly, rejected. However, the rejection of prayer for anticipatory bail of the

petitioner shall not prejudice him, if he surrenders and prays for bail before the court below and the same shall be considered on its own merit.

VPS **(Ramesh Kumar Datta,J.)**

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